IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

LA.App..No. 1260 of 1998(C)

(L.A.R.NO.271/1996 ON THE FILE OF THE SUB COURT, KOZHIKODE)

APPELLANT/RESPONDENT::

STATE OF KERALA

BY GOVERNMENT PLEADER SRI.K.V.MANOJ

RESPONDENT/CLAIMANT:

VELLULI JANU, MOKAVOOR,
P.O.ERANHIKKAL, KOZHIKODE

BY ADV. SRI.SUNNY MATHEW

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.1661/1999 IN L.A.A.NO.1260/1998

DISMISSED.

18-9-2007 SD/- KURIAN JOSEPH, JUDGE

SD/- HARUN-UL-RASHID, JUDGE

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1260 of 1998
& Cross Appeal.

Dated this the 18th day of September, 2007

JUDGMENT

Kurian Joseph,J.

This is an appeal filed against the judgment and decree in L.A.R.No.271/1996 on the files of the Sub Court, Kozhikode. The acquisition is for the purpose of National Highway Bye-pass. The acquired property is situated in Elathur Village. The reference court fixed the land value at Rs.12,500/- per cent. This appeal is filed by the State against such fixation. The claimant has filed a cross appeal claiming land value at the rate of Rs.18,000/- per cent. Inviting reference to the judgment of this court in L.A.A.No.1221/2000, it is submitted that the claimant is entitled to land value at the rate of Rs.18,000/- per cent. There is no evidence as to whether the property covered by this appeal is similar and similarly situated as the properties covered by the said appeal. Therefore, it is only in the interests of justice that the claimant is given an opportunity to adduce evidence regarding the similarity and comparability of the property.

Accordingly we dismiss L.A.A.No.1260/1998 and remit the cross appeal to the reference court for fresh consideration. It will be open to both sides to adduce evidence. In view of the remand as above, the cross appellant will be entitled to refund of the court fee. The reference court is directed to dispose of the matter within a period of four months from the date of appearance. The parties will appear before the reference court on 22-10-2007.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A.No.1260 of 1998

JUDGMENT

18th September, 2007